



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 25, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 15, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to decrease your food stamps.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Food Stamp Program is based on current policy and regulations. Some of these regulations state as follows: In cases with unearned income, coupon allotments are calculated by adding all non-excluded unearned income, subtracting the standard deduction, subtracting allowable medical expenses in excess of \$35, subtracting any legally obligated child support, giving a deduction for the amount of shelter/utility expenses in excess of 50% of the adjusted income and then comparing the resulting countable income to the Basis of Issuance Chart in Appendix C of Chapter 10 (WV Income Maintenance Manual Section 10.4(c) and 7 CFR 273.10(e)).

The information which was submitted at your hearing revealed that you are eligible for a monthly food stamp allotment in the amount of \$111.00.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to decrease your food stamps.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Susan Godby, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

Claimant,

v. Action Number:

**West Virginia Department of
Health and Human Resources.**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 15, 2005 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on June 15, 2005 on a timely appeal, filed February 22, 2005. It should be noted that this hearing was originally scheduled for April 21, 2005. It was rescheduled at the request of the claimant to June 15, 2005.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Food Stamp is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households". This is accomplished through the issuance of food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department

III. PARTICIPANTS:

_____, Claimant
_____, Claimant's Daughter
Susan Godby, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department is correct in the decision to decrease the claimant's food stamps as household income has increased..

V. APPLICABLE POLICY:

Appendix C, Chapter 10 and sections 10.4C and 10.4D of the West Virginia Income maintenance Manual
7 CFR 273.10 ©

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of form IG-BR-29 Hearing/Grievance Record Information
- D-2 Copy of notification letter dated 02/22/05
- D-3 Copy of section 10.4C of the West Virginia Income Maintenance Manual
- D-4 Copy of Department's Summary

VII. FINDINGS OF FACT:

- 1) The claimant was notified in a letter dated 02/18/05 that her food stamps would decrease from \$246.00 to \$111.00 effective 03/01/05. Reason: Your income has increased. (D-2) The claimant requested a hearing on this issue and benefits were continued.
- 2) A food stamp review was completed 02/17/05. The worker called Social Security to verify income. Mr. & Mrs. _____ owe a repayment to Social Security in the amount of \$20.00 each. Their income is: Mrs. _____ \$450.00 SSI (gross) and Mr. _____ \$419.00 (net).
- 3) In April, 2004 Mr. _____'s income was removed from RAPIDS. When the worker completed the review in February, 2005. she found Mr. _____ had been receiving Social Security in the amount of \$419.00. The removal of the income was caused by a computer error. The repayment is being counted as income for the SSI but not Social Security.

- 4) The gross unearned income counted for food stamps was \$869.00. The net adjusted income was \$542.50. Food Stamp allotment for an AG of two is \$111.00. (D-2)
- 5) Section 10.4C #3 of the West Virginia Income Maintenance Manual reads in part that to determine the coupon allotment, find the countable income and the number in the benefit group in Appendix C.
- 6) Section 10.4D #12 of the West Virginia Income Maintenance Manual reads in part that treatment of unearned income depends on the reason it is being withheld and the government program, if any involved. When a client's benefits under a federal or state means-tested program are reduced, due to the client's intentional misrepresentation, the amount being recouped from current benefits is counted as income. Means-tested programs include, but are not limited to, WV WORKS, SSI, HUD, and PELL. Any other recoupment is not counted.
- 7) Chapter 10, Appendix C of the West Virginia Income maintenance Manual shows that a two person AG with net adjusted income of \$542.50 receives \$111.00 a month in food stamps.
- 8) Section 10.4C#2 reads in part that the following steps are used to determine countable income for Food Stamps.

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income, including the AFDC/U check and any amount being repaid to the AFDC/U or SSI programs, due to intentional misrepresentation.

Step 4: Subtract the Standard Deduction found in Appendix B.

Step 5: Subtract the Dependent Care Deduction up to the maximums found in Appendix B.

Step 6: Subtract the amount of legally obligated child support actually paid.

Step 7: Subtract the Homeless Shelter Standard Deduction.

Step 8: Subtract allowable medical expenses in excess of \$35.

Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/utility cost of shelter/SUA amount.

Step 10:

	<p>No One Elderly</p> <p>Or Disabled</p>	<p>At Least One Person Elderly or Disabled</p>
<p>Shelter/ Utility</p> <p>Equal To Or Less Than Step 9</p>	<p>No further computatio n is needed. The amount from Step 8 is the countable income.</p>	<p>No further computatio n is needed. The amount from Step 8 is the countable income.</p>
<p>Shelter/ Utility Greater Than Step 9.</p>	<p>The amount is excess of 50%, not to exceed the shelter/ utility cap, is deducted to arrive at countable income.</p>	<p>The amount in excess of 50% is deducted, without regard to the shelter/ utility cap, to arrive at countable income.</p>

Step 11: Compare the countable income to the maximum net income in Appendix
A for the benefit group size.

VIII. CONCLUSIONS OF LAW:

- 1) The household's gross unearned income was calculated correctly.
- 2) The adjusted household income is \$542.50. The monthly coupon allotment for an AG of two is \$111.00.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to decrease the claimant's food stamps because the household's countable income increased. The action described in the notification letter dated February 18, 2005 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of July, 2005.

Margaret M. Mann
State Hearing Officer